

5  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. 11770US03

RECEIVED

JUN 03 1999

*In the Application of:*

AINSWORTH et al.

Serial No. 09/143,503

Filed: August 28, 1998

Patent No. 5,554,121

Issued: September 10, 1996

For: INTRALUMINAL CATHETER WITH  
HIGH STRENGTH PROXIMAL  
SHAFT



Examiner: J. Yasko Jr.

TECHNOLOGY CENTER 3700

Group Art Unit: 3763

603200  
S. J. H.  
6-17-99  
#5/Store  
Aband.  
watts  
\*  
Decl.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on May 25, 1999.

By:

  
George Wheeler  
Reg. No. 28,766

**Statement Of Timely Mailing (37 CFR 1.8(b))**

A Notice of Abandonment (Paper No. 4) was received in connection with this application, stating that "This application is abandoned in view of Applicant's failure to timely file a proper response to the Office letter mailed on 9-15-98 -- Failure to provide missing oath or declaration."

I, the undersigned George Wheeler, a registered patent attorney, hereby attest of my own personal knowledge that the papers necessary to respond to this Office letter were mailed to the PTO on January 4, 1999, and January 11, 1999. This statement is supported by the enclosed papers and by the enclosed copies of post card receipts stamped to indicate receipt of these papers by the PTO.

Enclosed herewith are copies of the following papers, including the indicated proof that they were mailed to the PTO:

<i>Paper Title</i>	<i>First Class Certificate of Mailing Date</i>	<i>Post Card Receipt: stamped date of receipt by PTO</i>
Completion Of Filing Requirements	January 4, 1999	January 6, 1999
Notice To File Missing Parts Of Application Filing Date Granted – Form – PTO 1533	January 4, 1999	January 6, 1999
Petition For Extension Of Time	January 4, 1999	January 6, 1999
Assignee's Statement Under 37 C.F.R. 3.73(b); Assent To Reissue; Offer to Surrender The Original Letters Patent; and Power Of Attorney	January 4, 1999	January 6, 1999
Declaration For Reissue Patent Application (2)	January 4, 1999	January 6, 1999
Declaration Of Attorney George Wheeler Supporting Completion Of Filing Requirements	January 4, 1999	January 6, 1999
Copy of 1-4-99 Post Card <u>without</u> PTO Received stamp and copy of 1-4-99 Post Card <u>with</u> USPTO received stamp dated January 6, 1999	January 4, 1999	January 6, 1999
Copy of check No. 31178 in the amount of \$2,094.00 to cover filing fees and extension of time fees.	January 4, 1999	January 6, 1999
Declaration of George Wheeler 37 C.F.R. § 1.47(a)	January 11, 1999	January 14, 1999
Copy of 1-11-99 Post Card <u>without</u> PTO Received stamp and copy of 1-11-99 Post Card <u>with</u> USPTO received stamp dated January 14, 1999	January 11, 1999	January 14, 1999

The Examiner is respectfully requested to withdraw the Notice of Abandonment and return this application to active status.

Respectfully submitted,

By:   
 George Wheeler  
 Reg. No. 28,766  
 Attorney for applicant(s)

May 25, 1999

DATE

McAndrews, Held & Malloy, Ltd.  
 34<sup>th</sup> Floor  
 500 West Madison Street  
 Chicago, IL 60661  
 312/707-8889



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NUMBER      FILING/RECEIPT DATE      FIRST NAMED APPLICANT      ATTORNEY DOCKET NO./TITLE

09/143,503      08/28/98      AINSWORTH      R      11770

0232/0916

MCANDREWS HELD & MALLOY LTD  
500 W MADISON STREET  
SUITE 3400  
CHICAGO IL 60661

NOT ASSIGNED

3734

DATE MAILED:

09/16/98

NOTICE TO FILE MISSING PARTS OF APPLICATION

*Filing Date Granted*

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of  \$65.00 for a small entity in compliance with 37 CFR 1.27, or  \$130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.

If all required items on this form are filed within the period set above, the total amount owed by applicant as a  
 small entity (statement filed)  non-small entity is \$ 1876

1. The statutory basic filing fee is:

missing.  
 insufficient.

Applicant must submit \$ 790 to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27). 956

2. Additional claim fees of \$ 956, including any multiple dependent claim fees, are required.

\$ 164 for 2 independent claims over 3.

\$ 792 for 36 dependent claims over 20.

\$                    for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

3. The oath or declaration:

is missing or unexecuted.  
 does not cover the newly submitted items.  
 does not identify the application to which it applies.  
 does not include the city and state or foreign country of applicant's residence.

An oath or declaration in compliance with 37 CFR 1.63, including residence information and identifying the application by the above Application Number and Filing Date is required.

4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.

A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

5. The signature of the following joint inventor(s) is missing from the oath or declaration:

*George Weller*  
An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

6. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).

7. Your filing receipt was mailed in error because your check was returned without payment.

8. The application does not comply with the Sequence Rules.

See attached "Notice to Comply with Sequence Rules 37 CFR 1.821-1.825."

9. OTHER:

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

***A copy of this notice MUST be returned with the reply.***

*Customer Service Center*

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

Hon. Commissioner of Patents and Trademarks  
Sir: Please place the USPTO receipt stamp hereon and  
place in outgoing mail to acknowledge receipt of:  
Docket No.: 17704503  
Applicant: AINSWORTH ET AL  
Serial No.: 64/143,503  
Date Filed: August 28, 1998

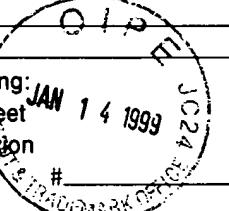
Transmittal \_\_\_\_\_  
 Fee \$ \_\_\_\_\_  
 Patent Application including:  
 Page(s) Cover Sheet  
 Page(s) Specification  
 Page(s) Claims # \_\_\_\_\_  
 Page(s) Abstract  
 Page(s) Drawings Formal Informal  
 Declaration & POA Signed Unsigned  
 Amendment \_\_\_\_\_ Page(s)  
 Assignment \_\_\_\_\_ Page(s)  
 Information Disclosure Statement \_\_\_\_\_ Page(s)  
 Cited Reference Copies  
 Trademark Application including Drawing  
 Number of Specimens  
 Other DECLARATION OF ELIGIBILITY  
4416662 R1 C.F.R. § 1.47(a)

Certificate of Mailing Dated as below  
 Certificate of Mailing By Express Mail

Dated 1-11-99

Hon. Commissioner of Patents and Trademarks  
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place in outgoing mail to acknowledge receipt of:  
Docket No.: 17704503  
Applicant: AINSWORTH ET AL  
Serial No.: 64/143,503  
Date Filed: August 28, 1998

**HELD & MALLOY, LTD.**  
Applicant

Transmittal \_\_\_\_\_  
 Fee \$ \_\_\_\_\_  
 Patent Application including:  
 Page(s) Cover Sheet   
 Page(s) Specification  
 Page(s) Claims # \_\_\_\_\_  
 Page(s) Abstract  
 Page(s) Drawings Formal Informal  
 Declaration & POA Signed Unsigned  
 Amendment \_\_\_\_\_ Page(s)  
 Assignment \_\_\_\_\_ Page(s)  
 Information Disclosure Statement \_\_\_\_\_ Page(s)  
 Cited Reference Copies  
 Trademark Application including Drawing  
 Number of Specimens  
 Other DECLARATION OF ELIGIBILITY  
4416662 R1 C.F.R. § 1.47(a)

Certificate of Mailing Dated as below  
 Certificate of Mailing By Express Mail

Dated 1-11-99

Respectfully: **McANDREWS, HELD & MALLOY, LTD.**  
Attorney for Applicant

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. 11770US03

*In the Application of:*

AINSWORTH et al.

Serial No. 09/143,503

Filed: August 28, 1998

Patent No. 5,554,121

Issued: September 10, 1996

For: INTRALUMINAL CATHETER WITH  
HIGH STRENGTH PROXIMAL  
SHAFT



*Examiner:*

Group Art Unit: 3734

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on January 4, 1999 GFW

By:   
George Wheeler  
Reg. No. 28,766

**PETITION FOR EXTENSION OF TIME**

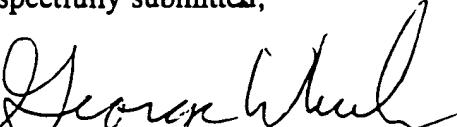
Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Applicant requests a TWO-month extension of time for reply to the Action dated September 16, 1998. A response will, therefore, be due on or before January 16, 1999. A check in the amount of \$400.00 is enclosed.

The Commissioner is hereby authorized to charge any deficiency or credit any excess portion of this fee to Deposit Account No. 13-0017.

Respectfully submitted,

By:   
George Wheeler  
Reg. No. 28,766  
Attorney for applicant(s)

January 4, 1999

DATE

McAndrews, Held & Malloy, Ltd.  
34<sup>th</sup> Floor  
500 West Madison Street  
Chicago, IL 60661  
312/707-8889

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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*Examiner:*

TECHNOLOGY CENTER 3700

*Group Art Unit:* 3734

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By:

  
George Wheeler  
Reg. No. 28,766

**COMPLETION OF FILING REQUIREMENTS**

**BOX MISSING PARTS**

Assistant Commissioner for Patents  
Washington, D.C. 20231

- \* This replies to the Office letter dated September 16, 1998. A copy of the Notice to File Missing Parts of Application-Filing Date Granted (Form PTO-1533) is enclosed.

Enclosed is a:

- \* petition and fee for extension of time (TWO-MONTHS AND \$400.00).
- \* ASSIGNEE'S STATEMENT UNDER 37 C.F.R. 3.73(b); ASSENT TO REISSUE; OFFER TO SURRENDER THE ORIGINAL LETTERS PATENT; and POWER OF ATTORNEY.

## DECLARATION OR OATH

- \* No original declaration or oath was filed and enclosed is an original declaration or oath for this application.

Attached is a:

- \* Statement by a registered attorney that the application filed in the PTO is the application which the inventor executed by signing the declaration.

## FEES

Filing fee:

- \* Original patent application (37 CFR 1.16(a)-\$760.00; small entity-\$380.00) \$760.00
- \* design application (37 CFR 1.16(f)-\$310.00; small entity-\$155.00) \$.00

Fees for claims:

- \* each independent claim in excess of 3 (37 CFR 1.16(b)-\$78.00; small entity-\$39.00) \$156.00
- \* each claim in excess of 20 (37 CFR 1.16(c)-\$18.00; small entity-\$9.00) \$648.00
- \* multiple dependent claim(s) (37 CFR 1.16(d)-\$260.00; small entity-\$130.00) \$.00

Surcharge fees:

- \* late payment of filing fee and/or
- \* late filing of original declaration or oath (37 CFR 1.16(e)-\$130.00; small entity-\$65.00) \$130.00
- \* petition fee for filing by other than all the inventors or a person not the inventor (37 CFR 1.17(h) and 1.47-\$130.00) \$.00

* fee for processing an application filed with a specification in a non-English language (37 CFR 1.17(k) and 1.52(d)-\$130.00	\$ .00
* fee for processing and retention of application (37 CFR 1.21(l) and 1.53(d)-\$130.00)	\$ .00
* Petition for Extension of Time – TWO-months	\$ 400.00
<b>TOTAL FEES</b>	<b><u>\$2094.00</u></b>

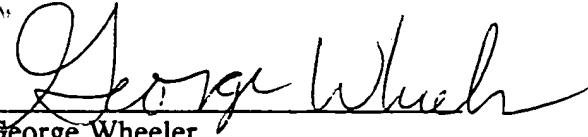
**PAYMENT OF FEES**

- \* enclosed is a check in the amount of \$2,094.00.

**AUTHORIZATION TO CHARGE ADDITIONAL FEES**

- \* The Commissioner is hereby authorized to charge the following additional fees which may be required by this paper and during the pendency of this application to Account No. 13-0017.
- \* 37 CFR 1.16(a), (f) or (g) (filing fees).
- \* 37 CFR 1.16 (b), (c) and (d) (presentation of extra claims).
- \* 37 CFR 1.16(e) (surcharge for filing the basic filing fee and/or declaration on a date later than the filing date of the application).
- \* 37 CFR 1.17 (application processing fees).

Respectfully submitted,

By:   
 George Wheeler  
 Reg. No. 28,766  
 Attorney for applicant(s)

January 4, 1999

DATE

McAndrews, Held & Malloy, Ltd.  
 34<sup>th</sup> Floor  
 500 West Madison Street  
 Chicago, IL 60661  
 312/707-8889



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SHAFT

*Examiner:*

*Group Art Unit: 3734* *#5*

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on January 4, 1999 (CR)

By: George Wheeler  
George Wheeler  
Reg. No. 28,766

**ASSIGNEE'S**

**STATEMENT UNDER 37 C.F.R. 3.73(b);**

**ASSENT TO REISSUE;**

**OFFER TO SURRENDER  
THE ORIGINAL LETTERS PATENT;**

***and***

**POWER OF ATTORNEY**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The undersigned sole assignee, Advanced Cardiovascular Systems, Inc., hereby provides evidence of its entitlement to act in the reissue application identified above in the heading, as required under 37 C.F.R. 1.172(a) and 3.73(b). A copy of the assignment of all rights in the reissue application identified above in the heading to Advanced Cardiovascular Systems, Inc.,

showing the recording information (Reel 1266, Frame 620), is attached. A party authorized to act on behalf of the assignee has signed this submission establishing ownership.

Advanced Cardiovascular Systems, Inc., hereby asserts to the reissue application identified above in the heading.

Advanced Cardiovascular Systems, Inc., on whose behalf and with whose assent the reissue application identified above in the heading is made, hereby offers to surrender said letters patent upon allowance of one or more corresponding reissue applications.

Advanced Cardiovascular Systems, Inc., hereby revokes all prior powers of attorney, asserts its sole right to control prosecution of the present reissue application, and appoints the following attorneys and/or agents to prosecute the reissue application identified above in the heading and to transact all business in the Patent and Trademark Office connected therewith:

George P. McAndrews	Reg. No. 22,760
John J. Held	Reg. No. 21,061
Timothy J. Malloy	Reg. No. 25,600
William M. Wesley	Reg. No. 26,521
Lawrence M. Jarvis	Reg. No. 27,341
Gregory J. Vogler	Reg. No. 31,313
Jean Dudek Kuelper	Reg. No. 30,171
Herbert D. Hart III	Reg. No. 30,063
Robert W. Fieseler	Reg. No. 31,826
D. David Hill	Reg. No. 35,543
Thomas J. Wimbiscus	Reg. No. 36,059
Steven J. Hampton	Reg. No. 33,707
Priscilla F. Gallagher	Reg. No. 32,223
Stephen F. Sherry	Reg. No. 30,590
Patrick J. Arnold, Jr.	Reg. No. 37,769
George Wheeler	Reg. No. 28,766
Janet M. McNicholas	Reg. No. 32,918
Ronald E. Larson	Reg. No. 24,478
Christopher C. Winslade	Reg. No. 36,308
Edward A. Mas II	Reg. No. 37,179
Gregory C. Schodde	Reg. No. 36,668
Edward W. Remus	Reg. No. 25,703
Donald J. Pochopien	Reg. No. 32,167
Sharon A. Hwang	Reg. No. 39,717
David D. Headrick	Reg. No. 40,642
Dean D. Small	Reg. No. 34,730
Alejandro Menchaca	Reg. No. 34,389
Kirk A. Vander Leest	Reg. No. 34,036

Richard T. McCaulley, Jr.	Reg. No. 41,977
Peter J. McAndrews	Reg. No. 38,547
Michael B. Harlin	Reg. No. P-43,658
Jonathan R. Sick	Reg. No. P-43,920
Krista S. Schwartz	Reg. No. 42,134
Eligio C. Pimentel	Reg. No. 42,076
John F. Nethery	Reg. No. 42,928
Paul L. Rodriguez	Reg. No. 40,788
Stephen H. Bean	Reg. No. 41,607
Alison L. Pollock	Reg. No. P-43,863
James P. Murphy	Reg. No. 40,471
Joseph M. Barich	Reg. No. 42,291
Scott P. McBride	Reg. No. 42,853

Address all telephone calls to George Wheeler at telephone number:

(312) 707-8889.

Address all correspondence to:

McAndrews, Held & Malloy, Ltd.  
34th Floor  
500 W. Madison Street  
Chicago, Illinois 60661

The Commissioner is hereby authorized to charge any fees that are presently required, or credit any overpayment, to Deposit Account No. 13-0017.

Respectfully submitted,

**ADVANCED CARDIOVASCULAR  
SYSTEMS, INC.**

11/30/98  
Date Signed  
BY: TR RPT re  
Thomas R. Peterson  
Vice President and General Counsel

Filed by  
**McAndrews, Held & Malloy, Ltd.**  
34th Floor  
500 West Madison Street  
Chicago, IL 60651  
(312) 707-8889



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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*Serial No.* 09/143,503

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SHAFT

*Examiner:*

*Group Art Unit:* 3734

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By:

George Wheeler  
George Wheeler  
Reg. No. 28,766

**DECLARATION  
for  
REISSUE PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a reissued patent is sought on the invention entitled:

**INTRALUMINAL CATHETER WITH HIGH STRENGTH PROXIMAL SHAFT**

the specification of which was filed on August 28, 1998 as United States Reissue Application Number 09/143,503 ("this application").

I understand that this application is being filed to reissue U.S. Patent No. 5,554,121, which was issued on July 14, 1998, and for which a reexamination certificate B1 5,554,121 issued July 14, 1998 ("the original patent"). I believe the original patent to be partly inoperative because I claimed less than I had the right to claim in the patent. One error being relied upon as the basis for reissue is the previous omission of claims having the scope of claims 18-56 newly submitted with this application. I understand that at least claims 18 and 53 are broader than any claim in the original patent.

All errors being corrected in this application up to the time of filing of this oath or declaration arose without any deceptive intention on my part. I believe that all errors being corrected in this application up to the time of filing of this oath or declaration arose without any deceptive intention on the part of any other applicant.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information which I know to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below. I have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

<u>Number</u>	<u>Country</u>	<u>Day/Month/Year Filed</u>	<u>Is Priority Claimed?</u>
---------------	----------------	-----------------------------	-----------------------------

None

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

<u>Application Number</u>	<u>Filing Date</u>
---------------------------	--------------------

None

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below. Insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

Serial No.   Filing Date   Patented, Pending, or Abandoned?

None

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

This declaration names 3 inventor(s) below.

**Information about sole or first inventor:**

First inventor's signature:

Date Signed: December 14, 1998

Information about second joint inventor:

(given name, family name): Tai C. Cheng

Residence: 3375 Kenzo Court

Mountain View, California 94040

Citizenship: United States of America

Post Office Address: 3375 Kenzo Court

Mountain View, California 94040

Second inventor's signature: Robert D. Ainsworth by Robert D. Ainsworth

(Signed by Robert D. Ainsworth on behalf of the omitted inventor)

Date Signed: December 14, 1998

---

Information about third joint inventor:

(given name, family name): Lawrence D. Wasicek

Residence: 940 Bimmerle Place

San Jose, CA 95123

Citizenship: United States of America

Post Office Address: 940 Bimmerle Place

San Jose, CA 95123

Third inventor's signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

---



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. 11770US03

*In the Application of:*

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*Examiner:*

**Group Art Unit:** 3734

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By:



George Wheeler  
Reg. No. 28,766

**DECLARATION  
for  
REISSUE PATENT APPLICATION**

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a reissued patent is sought on the invention entitled -

**INTRALUMINAL CATHETER WITH HIGH STRENGTH PROXIMAL SHAFT**

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All errors being corrected in this application up to the time of filing of this oath or declaration arose without any deceptive intention on my part. I believe that all errors being corrected in this application up to the time of filing of this oath or declaration arose without any deceptive intention on the part of any other applicant.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the United States Patent and Trademark Office all information which I know to be material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) of any foreign application(s) for patent or inventor's certificate listed below. I have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

<u>Number</u>	<u>Country</u>	<u>Day/Month/Year Filed</u>	<u>Is Priority Claimed?</u>
---------------	----------------	-----------------------------	-----------------------------

None

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

<u>Application Number</u>	<u>Filing Date</u>
---------------------------	--------------------

None

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below. Insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, § 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

Serial No. Filing Date Patented, Pending, or Abandoned?

None

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

This declaration names 3 inventor(s) below.

**Information about sole or first inventor:**

First inventor's signature: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Information about second joint inventor:

(given name, family name): Tai C. Cheng

Residence: 3375 Kenzo Court

Mountain View, California 94040

Citizenship: United States of America

Post Office Address: 3375 Kenzo Court

Mountain View, California 94040

Second inventor's signature: \_\_\_\_\_ by Robert D. Ainsworth

(Signed by Robert D. Ainsworth on behalf of the omitted inventor)

Date Signed: \_\_\_\_\_

---

Information about third joint inventor:

(given name, family name): Lawrence D. Wasicek

Residence: 940 Bimmerle Place

San Jose, CA 95123

Citizenship: United States of America

Post Office Address: 940 Bimmerle Place

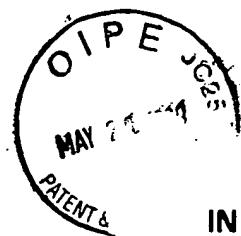
San Jose, CA 95123

Third inventor's signature: \_\_\_\_\_

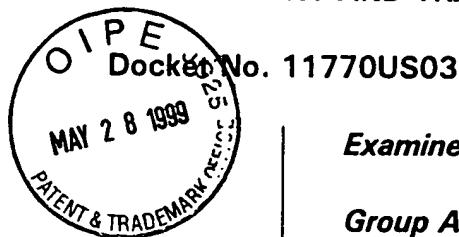


Date Signed: \_\_\_\_\_

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



*In the Application of:*

AINSWORTH et al.

*Serial No.* 09/143,503

*Filed:* August 28, 1998

*Patent No.* 5,554,121

*Issued:* September 10, 1996

*For:* INTRALUMINAL CATHETER WITH  
HIGH STRENGTH PROXIMAL  
SHAFT

*Examiner:*

*Group Art Unit:* 3734

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231 on

January 4, 1999

By:

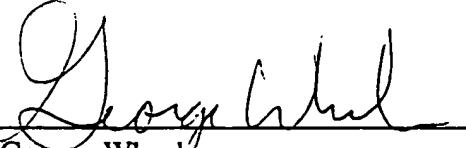
  
George Wheeler  
Reg. No. 28,766

**DECLARATION OF ATTORNEY GEORGE WHEELER  
SUPPORTING COMPLETION OF FILING REQUIREMENTS**

I, George Wheeler hereby declare that the present patent application, as identified above in the caption, is the application which the inventor(s) executed by signing the Combined Declaration and Power of Attorney In Original Application enclosed herewith.

All statements made herein of my own knowledge are true, and all statements made herein on information and belief are believed to be true. I have been warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18 U.S. Code 1001, and may jeopardize the validity of the application or any patent issuing thereon.

January 4, 1999  
Date

  
George Wheeler  
Reg. No. 28,766



Hon. Commissioner of Patents and Trademarks  
Sir: Please place the USPTO receipt stamp hereon and place in outgoing mail to acknowledge receipt of:  
Docket No.: 117704503  
Applicant: AINSWORTH et al.  
Serial No.: 69/143 503  
Date Filed: 8-28-98  
 Transmittal COMPLETION OF FILING REQ.  
 Fee \$2,094.00  
 Patent Application including: PETITION FOR  
    \_\_\_\_ Page(s) Cover Sheet EXTENSIONS OF  
    \_\_\_\_ Page(s) Specification TIME  
    \_\_\_\_ Page(s) Claims # \_\_\_\_\_  
    \_\_\_\_ Page(s) Abstract  
    \_\_\_\_ Page(s) Drawings Formal Informal  
    \_\_\_\_ Declaration & POA  Signed  Unsigned (2)  
 Amendment Page(s) PTO FORM PTO-153  
    \_\_\_\_ Assignment Page(s)  
    \_\_\_\_ Information Disclosure Statement Page(s)  
    \_\_\_\_ Cited Reference Copies  
    \_\_\_\_ Trademark Application including Drawing  
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 Other ASSIGNEES STATEMENT UNDER 31C.F.R.  
    3.73(b); ABSENT TO REISSUE, OFFER TO  
    SURRENDER THE ORIGINAL LETTER PAT. AND  
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Attorney for Applicant

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Sir: Please place the USPTO receipt stamp hereon and place in outgoing mail to acknowledge receipt of:  
Docket No.: 117704503  
Applicant: AINSWORTH et al.  
Serial No.: 69/143 503  
Date Filed: 8-28-98  
 Transmittal COMPLETION OF FILING REQ.  
 Fee \$2,094.00  
 Patent Application including: PETITION FOR  
    \_\_\_\_ Page(s) Cover Sheet EXTENSIONS OF  
    \_\_\_\_ Page(s) Specification TIME  
    \_\_\_\_ Page(s) Claims # \_\_\_\_\_  
    \_\_\_\_ Page(s) Abstract  
    \_\_\_\_ Page(s) Drawings Formal Informal  
    \_\_\_\_ Declaration & POA  Signed  Unsigned (2)  
 Amendment Page(s) PTO FORM PTO-153  
    \_\_\_\_ Assignment Page(s)  
    \_\_\_\_ Information Disclosure Statement Page(s)  
    \_\_\_\_ Cited Reference Copies  
    \_\_\_\_ Trademark Application including Drawing  
    \_\_\_\_ Number of Specimens  
 Other ASSIGNEES STATEMENT UNDER 31C.F.R.  
    3.73(b); ABSENT TO REISSUE, OFFER TO  
    SURRENDER THE ORIGINAL LETTER PAT. AND  
 Certificate of Mailing Dated as below POA  
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Attorney for Applicant

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Docket No. 11770US03**

***In the Application of:***

AINSWORTH et al.

**Serial No.** 09/143,503

**Filed:** August 28, 1998

**Patent No.** 5,554,121

**Issued:** September 10, 1996

**For:** INTRALUMINAL CATHETER WITH  
HIGH STRENGTH PROXIMAL  
SHAFT

***Examiner:***

***Group Art Unit: 3734***

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, BOX MISSING PARTS, Washington, D.C. 20231 on January 11, 1999.

By: George Wheeler

George Wheeler  
Reg. No. 28,766

**DECLARATION OF GEORGE WHEELER**

**37 C.F.R. § 1.47(a)**

1. This declaration is being submitted to explain the circumstances under which Tai C. Cheng, one of the joint inventors of the original patent on which this reissue application is based, cannot be reached to obtain his signature on documents in this application. I, George Wheeler, am an attorney of record in this application. I have first-hand knowledge of the facts recited herein.

## DETAILS OF EFFORTS TO REACH NONSIGNING INVENTOR

2. On November 9, 1998, I called Mr. Ainsworth, the only inventor who is presently employed by the assignee, to look for the current address of Mr. Cheng. He informed me that Tai C. Cheng's last known address is the address listed in the original patent application: 3375 Kenzo Court, Mountain View, California 94040, and that Mr. Cheng's last known telephone number is 1-415-961-5737.
3. On November 12, 1998, I obtained a "national yellow pages" Internet search to find possible addresses of Mr. Cheng. A report of that search is attached as Exhibit A. The only "Tai C. Cheng" found in that search resides at 724 Bernard Street, Los Angeles, CA 90012.
4. On December 2, Mr. Ainsworth informed me that his attempts to call Mr. Cheng were unsuccessful because the number was not in service.
5. On December 7, 1998, I prepared a package including the reissue application, drawings and an inventors' oath for signature by Mr. Cheng. I drafted a letter to Mr. Cheng explaining the situation and sent it to him by Express Mail (with return receipt) and by Federal Express. A copy of the letter is attached as Exhibit B.
6. The letter was delivered to a Mr. Cheng (the Express Mail receipt is attached as Exhibit C). But on December 11, Mr. Cheng's daughter called back to report that the Mr. Cheng we reached does not speak English and was not the Tai C. Cheng who would have been one of the present inventors.
7. On December 16, I attempted to call Mr. Cheng at the telephone number which had not worked for Mr. Ainsworth. I, too, was informed by a recorded message that the number dialed was not in service.
8. Therefore, I do not know and have not been able to find out Inventor Tai C. Cheng's whereabouts after conducting a nationwide Internet search and checking his last known address and telephone number.

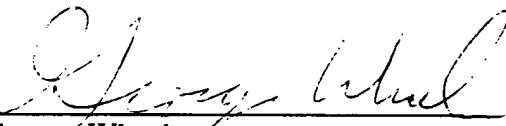
9. Inventor Tai C. Cheng's last known address is the address listed in the original patent application:

3375 Kenzo Court  
Mountain View, California 94040.

Mr. Cheng's last known telephone number is 1-415-961-5737.

10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

By: 

George Wheeler  
Reg. No. 28,766  
Attorney for applicant(s)

January 11, 1999  
DATE

McAndrews, Held & Malloy, Ltd.  
34<sup>th</sup> Floor  
500 West Madison Street  
Chicago, IL 60661  
312/707-8889

Exhibit A



People Finder

**reference channel**  
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Choose a Channel

GOLF

**Search Results**powered by **AnyWho**[Add Listing](#)**California**213 227 1628

AT&amp;T Click2Dial™

**CHENG,TAI C**724 Bernard Street

Los Angeles, CA 90012

[Update](#)[Map](#)916 348 8919

AT&amp;T Click2Dial™

**CHENG,TAI P**3641 Van Owen Street

North Highlands, CA 95660

[Update](#)[Map](#)**Florida**813 447 6214

AT&amp;T Click2Dial™

**CHENG,TAI**1607 Barry Street

Clearwater, FL 34616

[Update](#)[Map](#)407 870 0368

AT&amp;T Click2Dial™

**CHENG,TAI S**3425 Fox Crossing Drive

Kissimmee, FL 34741

[Update](#)[Map](#)**Georgia**770 985 0264

AT&amp;T Click2Dial™

**CHENG,TAI**1071 Kenmore Way

Snellville, GA 30078

[Update](#)[Map](#)**Nevada**702 242 8934

AT&amp;T Click2Dial™

**CHENG,TAIBEN**9633 Towngate Avenue

Las Vegas, NV 89129

[Update](#)[Map](#)**New York**212 925 0498

AT&amp;T Click2Dial™

**CHENG,TAI**19 Allen Street

New York, NY 10002

[Update](#)[Map](#)718 599 5657**CHENG,TAI H**

718 599 5657  
AT&T Click2Dial<sup>sm</sup>

**CHENG,TAI H**  
18 Beadel Street  
Brooklyn, NY 11222

[Update](#)[Map..](#)

718 599 0026  
AT&T Click2Dial<sup>sm</sup>

**CHENG,TAI H**  
26 Varick Street  
Brooklyn, NY 11222

[Update](#)[Map..](#)

212 226 8263  
AT&T Click2Dial<sup>sm</sup>

**CHENG,TAI M**  
47 Delancey Street  
New York, NY 10002

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Exhibit B

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D. DAVID HILL  
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EDWARD W. REMUS  
DONALD J. POCHOPIN  
SHARON A. HWANG  
DAVID D. HEADRICK  
DEAN D. SMALL  
ALEJANDRO MENCHACA

34TH FLOOR  
500 WEST MADISON STREET  
CHICAGO, ILLINOIS 60661  
TELEPHONE: (312) 707-8889  
FACSIMILE: (312) 707-9155

KIRK A. VANDER LEEST  
RICHARD T. MCCALLLEY, JR.  
MELISSA M. MCCALLLEY  
PETER J. MCANDREWS  
MATTHEW G. MCANDREWS  
LELAND G. HANSEN  
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JAMES P. MURPHY  
DEAN A. PELLETIER  
JOSEPH M. BARICH  
TIFFANY M. BROOKS  
SCOTT P. McBRIDE  
PATRICIA J. MCGRATH

December 7, 1998

OF COUNSEL  
ROBERT C. RYAN  
S. JACK SAUER

VIA FEDERAL EXPRESS  
AND EXPRESS MAIL WITH RETURN RECEIPT

Tai C. Cheng  
724 Bernard Street  
Los Angeles, CA 90012

EL026004628US

RE: Reissue Application for your U.S. Patent No. 5,554,121  
*Intraluminal Catheter With High Strength Proximal Shaft*  
Our Docket No. 11770US03

Dear Mr. Cheng:

I am a patent attorney. I have been hired by Advanced Cardiovascular Systems, Inc. (ACS) to seek reissue of its U.S. Patent No. 5,554,121, entitled *Intraluminal Catheter With High Strength Proximal Shaft*, which names "Tai C. Cheng" as a joint inventor, along with Bob Ainsworth and Larry Wasicek. I enclose a copy of the original patent for your information. Since I am sending this package two different ways, you probably will receive two of them, with identical contents.

*My Efforts to Contact You*

I did not have your current address, since you have not worked at ACS for awhile and you apparently have moved from the house in Mountain View, California, where you lived while you worked for ACS. I therefore turned to an internet "Yellow pages" site, which named only one "Tai C. Cheng" in the United States. Bob Ainsworth has tried to call you a number of times recently, at the number given in the "Yellow pages" site. The telephone has not been answered, so I don't know if Bob is calling the right number. Having failed to reach you by telephone, I have sent this letter to the address given by the "Yellow pages" site.

McANDREWS, HELD & MALLOY, LTD.

Tai C. Cheng  
December 7, 1998  
Page 2

I realize that you may or may not be the Tai C. Cheng who worked at ACS and is an inventor for the enclosed patent. Please call me, George Wheeler, right away at 312-707-8889 between about 7 AM and 3 PM (Pacific Standard Time) on a work day to confirm whether you are the Tai C. Cheng I am looking for. You may call me "collect" if you don't want to pay for the telephone call. If you are not the Tai C. Cheng I am looking for, please accept my apology for filling your mailbox. After you tell me you are not the person I seek, I will stop trying to contact you. (If, however, you can tell me where to find the Tai C. Cheng I am looking for, I would appreciate the information.)

*Recent Developments Regarding Your Patent*

Returning to the main reason for this letter, your original patent was reexamined at the request of a competitor. As a result, the original patent was kept in force, and claims 7-17 were added during reexamination.

I am now seeking to reissue the patent. One goal of the reissue is to broaden the original claims. The new claims 18-56 I am seeking can be found on pages 10-15 of the enclosed "SPECIFICATION AND CLAIMS FOR REISSUE APPLICATION."

*I Need You To Read, Sign,  
And Return The Enclosed Forms*

To reissue the patent, each inventor, including you, must sign a declaration explaining how the patent came to be issued with its original claims and what error is being corrected by reissue. I consulted with Bob Ainsworth and Larry Wasicek to obtain the necessary information. Two copies of the declaration are attached to the end of the enclosed "SPECIFICATION AND CLAIMS FOR REISSUE APPLICATION."

The enclosed declaration does not blame anyone for this error: It just states that an error occurred, without deceptive intention, because claims of the proposed scope were not originally sought. The declaration does not state that you or any other inventor made the error. Normally, the inventors are not expected to expertly draft the claims in a patent application.

Please read the enclosed "SPECIFICATION AND CLAIMS FOR REISSUE APPLICATION" completely. Deletions from the reexamined patent are indicated by brackets, and additions are indicated by underlining. Also completely and carefully read the declaration at the end of the enclosed "SPECIFICATION AND CLAIMS FOR REISSUE APPLICATION." If you have any problems or questions, please call me at the number given above.

McANDREWS, HELD & MALLOY, LTD.

Tai C. Cheng  
December 7, 1998  
Page 3

If the enclosures are satisfactory, please sign your name at the places indicated by arrow tabs sticking out of the margin. Please sign the two duplicate declarations. We ask for two so that, after we send one to the United States Patent and Trademark Office, we will have the other in case the original is misplaced or fails to reach its destination for some reason. That way, it is very unlikely that we will need to contact you again.

*Please Return The Signed Enclosures Promptly*

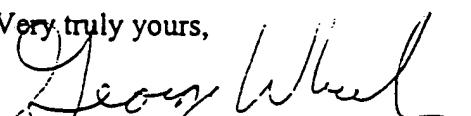
Return the signed "SPECIFICATION AND CLAIMS FOR REISSUE APPLICATION" to me. You can put this document in the enclosed Express Mail mailer and mail it in any Express Mail dropoff point or U.S. Postal Service box or office. You do not need to attach any postage to the envelope – it will be paid by us. If you need to incur any reasonable personal expense to cooperate with us, I will be happy to reimburse you. I have tried to avoid causing you any expense. If you get a second package with the same enclosures, you don't need to repeat this step. You may keep or discard the extra papers.

This matter is urgent. I must receive your signed papers and send them to the U.S. Patent and Trademark Office in Arlington, Virginia before December 16. Time must be left to allow the package to get from you to us, and ultimately to the Patent Office. Please send the signed papers back on or before December 11.

*The "Bottom Line"*

I would appreciate an immediate call to tell us if I have found the right Tai C. Cheng, followed by prompt attention to the enclosures if you are the inventor I am seeking. I apologize for the rush: I thought Bob would be able to reach you several weeks ago on the telephone.

Very truly yours,

  
George Wheeler

GW/liz

Enclosures

cc: Tim L. Kitchen

EL025944845US

~ FED EX 10/25/98

EL026004631US

~ FED EX 10/25/98

Exhibit C

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Time In <i>1130</i>	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee <i>11.00</i>
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